

(1) Insurance.

(2) Surety bond issued by a bonding company authorized to do business in the United States.

(3) Qualification as a self-insurer.

(4) Other evidence of financial responsibility.

Sec. 44104. Civil penalty

A person violating section 44102 or 44103 of this title is liable to the United States Government for a civil penalty of not more than \$5,000, plus \$200 for each passage sold. The Federal Maritime Commission may remit or mitigate the penalty on terms the Commission decides are proper.

Sec. 44105. Refusal of clearance

A vessel not having evidence of compliance with sections of this title issued by the Federal Maritime Commission may not be cleared by the Customs Service under section 70104 of this title.

Sec. 44106. Conduct of proceedings

Part A of this subtitle applies to proceedings conducted by the Federal Maritime Commission under this chapter.

SUBTITLE V--MERCHANT MARINE

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PART J--RESTRICTIONS AND PENALTIES

PART A--GENERAL

CHAPTER 501--POLICY, STUDIES, AND REPORTS

Sec.

- 50101. Objectives and policy.
- 50102. Survey of merchant marine.
- 50103. Decisions on essential services.
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- 50107. Studies on marine insurance.
- 50108. Miscellaneous studies.
- 50109. Reports to Congress.
- 50110. National Maritime Enhancement Institutes.

Sec. 50101. Objectives and policy

(a) Objectives.--It is necessary for the promotion of the domestic and foreign commerce of the United States and the national defense that the United States have a merchant marine--

(1) sufficient to carry the waterborne domestic commerce and a substantial part of the waterborne export and import foreign commerce of the United States and to provide shipping service essential for maintaining the flow of the waterborne domestic and foreign commerce at all times;

(2) capable of serving as a naval and military auxiliary in time of war or national emergency;

(3) owned and operated under United States documentation by citizens of the United States to the extent practicable;

(4) composed of the best-equipped, safest, and most suitable types of vessels, built in the United States and manned with a trained and efficient crew of citizens of the United States; and

(5) supplemented by efficient facilities for building and repairing vessels, marine insurance, and other auxiliary services.

(b) Policy.--It is the policy of the United States Government to encourage and aid the development and maintenance of a merchant marine satisfying the objectives described in subsection (a) of this section.

Sec. 50102. Survey of merchant marine

(a) General.--The Secretary of Transportation periodically shall survey the merchant marine of the United States to determine whether replacements and additions are required to carry out the objectives and policy of section 50101 of this title. The Secretary shall study, perfect, and adopt a long-range program for replacements and additions that will result, as soon as practicable, in--

(1) an adequate and well-balanced merchant fleet, including vessels of all types, that will provide shipping service essential for maintaining the flow of foreign commerce by vessels designed to be readily and quickly convertible into transport and supply vessels in a time of national emergency;

(2) ownership and operation of the fleet by citizens of the United States insofar as may be practicable;

(3) the planning of vessels designed to afford the best and most complete protection for passengers and crew against fire and marine perils; and

(4) an efficient capacity for building and repairing vessels in the United States with an adequate number of skilled personnel to provide an adequate mobilization base.

(b) Cooperation With Secretary of Navy.--In carrying out subsection (a)(1) of this section, the Secretary of Transportation shall cooperate closely with the Secretary of the Navy with respect to national defense requirements.

Sec. 50103. Decisions on essential services

(a) General Requirements.--(1) The Secretary of Transportation shall decide which ocean services, routes, and lines from ports in the United States to foreign markets are essential to promote, develop, expand, and maintain the foreign commerce of the United States. In making a decision under this subsection, the Secretary shall consider--

(A) the cost of maintaining each line, the probability that a line can only be maintained at a heavy loss disproportionate to the benefit to foreign commerce, the number of voyages and types of vessels that should be used in a line, and any other facts and conditions that a prudent business person would consider when dealing with the person's own business; and

(B) the intangible benefit of maintaining the particular service for the foreign commerce of the United States, the national defense, and other national requirements.

(2) In carrying out paragraph (1) of this subsection, the Secretary shall establish services, routes, and lines that reflect the seasonal closing of the Saint Lawrence Seaway

and provide for alternate routing of vessels through a different range of ports during that closing to maintain continuity of service on a year-round basis.

(b) Bulk Cargo Requirements.--The Secretary shall decide which bulk cargo-carrying services should be provided by documented vessels (regardless of whether operating on particular services, routes, or lines) to promote, develop, expand, and maintain the foreign commerce of the United States and to promote the national defense or other national requirements.

(c) Documented Vessel Requirements.--The Secretary shall decide on the type, size, speed, method of propulsion, and other requirements of the documented vessels that should be engaged in providing--

(1) the essential services referred to in subsection (a) of this section, and the frequency and regularity of operation of the vessels, to ensure that the service is adequate, regular, and permanent; and

(2) the bulk cargo-carrying services referred to in subsection (b) of this section.

Sec. 50104. Studies on general maritime problems

The Secretary of Transportation shall make periodic studies on maritime problems arising in carrying out the objectives and policy of section 50101 of this title.

Sec. 50105. Studies on the building of vessels

(a) Studies.--The Secretary of Transportation shall make periodic studies on--

(1) the number, location, and efficiency of shipyards in the United States;

(2) the relative cost of building and equipping comparable merchant vessels in the United States and foreign countries;

(3) the regulations under which vessels are built in the United States and foreign countries and the methods of classifying and rating the vessels;

(4) new designs, methods of building, and types of equipment for vessels;
and

(5) the building, by or with the aid of the United States Government, of superliner passenger vessels comparable to those of other countries, to be available for use in a national emergency.

(b) Consultation.--The Secretary shall consult with vessel owners and builders in developing plans for the economical building of modern and economical vessel types,

giving thorough consideration to each well-recognized means of propulsion and considering the benefits of standardized production techniques.

Sec. 50106. Studies on the operation of vessels

The Secretary of Transportation shall make periodic studies on--

- (1) the navigation laws and regulations of the United States;
- (2) the relative cost, advantages, and disadvantages of operating vessels under United States and foreign documentation in foreign commerce; and
- (3) the relative cost of each item of expense (including marine insurance, maintenance, repairs, wages, and subsistence of officers and crews) in the operation of comparable vessels under the laws and regulations of the United States and the laws and regulations of foreign countries whose vessels are substantial competitors of vessels of the United States.

Sec. 50107. Studies on marine insurance

The Secretary of Transportation shall make periodic studies on marine insurance and decide which steps may be necessary to develop an adequate marine insurance system as an aid in developing the merchant marine of the United States. The studies shall cover--

- (1) the number of domestic and foreign companies providing marine insurance in the United States;
- (2) the extent of the insurance on hulls and cargoes placed or written in the United States; and
- (3) the extent of reinsurance of domestic maritime risks in foreign companies.

Sec. 50108. Miscellaneous studies

The Secretary of Transportation shall make periodic studies on--

- (1) ways to encourage the importers and exporters of the United States to give preference to vessels of the United States and other possibilities for promoting the carrying of American foreign commerce in vessels of the United States;
- (2) ways of encouraging the development and implementation of new concepts for transporting property in the domestic and foreign commerce of the United States, including the economic and technological aspects of the use of

cargo containers, but without giving preference to carriers based on the length, height, or width of cargo containers or of cargo container cells in existing container vessels or any container vessel to be built or rebuilt;

(3) the legal status of mortgage loans on vessel property, with the objective of improving the security of loans and encouraging investment in United States shipping;

(4) the type and extent of aid by governments of foreign countries to their merchant marines;

(5) tramp shipping service and the advisability of citizens of the United States participating in tramp shipping services with vessels under United States documentation;

(6) intercoastal and inland water transportation, including their relation to transportation by land and air;

(7) provisions of this subtitle related to shipping that should be made applicable to aircraft engaged in foreign commerce, with appropriate recommendations for implementing legislation, to carry out the objectives and policy of section 50101 of this title; and

(8) the advisability of enactment of laws authorizing the Secretary in an economic or commercial emergency to aid farmers and cotton, coal, lumber, and cement producers in any section of the United States in transporting and landing in a foreign port their products (which can be carried in dry-cargo vessels) by reducing rates, by supplying additional tonnage to a United States operator, or by operation of vessels directly by the Secretary, until the Secretary considers the special rate reduction and operation unnecessary for the benefit of those farmers and producers.

Sec. 50109. Reports to Congress

(a) In General.--The Secretary of Transportation shall submit to Congress each year reports that include--

(1) the results of the studies and investigations, a summary of the transactions and activities, and a statement of all receipts and expenditures by the Secretary under this subtitle;

(2) a detailed statement of each transaction during the reporting period involving the acquisition, sale, trade-in, or exchange of vessels by, to, or from the Secretary of Transportation;

(3) a detailed description of the actions that have been taken under this subtitle to ensure, as far as possible, that direct and adequate service is provided by commercial documented vessels to each range of ports serving the Atlantic, Gulf, Pacific, and Great Lakes areas;

(4) a detailed statement of each activity, expenditure, and receipt related to the war risk insurance program; and

(5) any recommendations for legislation to carry out this subtitle.

(b) Annual Reporting.--The Secretary shall submit the report under subsection (a)(1) not later than April 1 each year.

(c) Reporting of Administered and Oversight Funds.--The Secretary, in the report under subsection (a)(1) and in the annual budget estimate for the Maritime Administration submitted to Congress, shall state separately the amount, source, intended use, and nature of any funds (other than funds appropriated to the Administration or to the Secretary of Transportation for use by the Administration) administered, or subject to oversight, by the Administration.

Sec. 50110. National Maritime Enhancement Institutes

(a) Designation.--The Secretary of Transportation may designate National Maritime Enhancement Institutes.

(b) Activities.--Activities undertaken by an institute may include-

(1) conducting research about methods to improve the performance of maritime industries;

(2) enhancing the competitiveness of domestic maritime industries in international trade;

(3) forecasting trends in maritime trade;

(4) assessing technological advancements;

(5) developing management initiatives and training;

(6) analyzing economic and operational impacts of regulatory policies and international negotiations or agreements pending before international bodies;

(7) assessing the compatibility of domestic maritime infrastructure systems with overseas transport systems;

(8) fostering innovations in maritime transportation pricing; and

(9) improving maritime economics and finance.

(c) Application for Designation.--An institution seeking designation as a National Maritime Enhancement Institute shall submit an application under regulations prescribed by the Secretary.

(d) Criteria for Designation.--The Secretary shall designate an institute under this section on the basis of the following criteria:

(1) The demonstrated research and extension resources available to the applicant for carrying out the activities specified in subsection (b) of this section.

(2) The ability of the applicant to provide leadership in making national and regional contributions to the solution of both long-range and immediate problems of the domestic maritime industry.

(3) The existence of an established program of the applicant encompassing research and training directed to enhancing maritime industries.

(4) The demonstrated ability of the applicant to assemble and evaluate pertinent information from national and international sources and to disseminate results of maritime industry research and educational programs through a continuing education program.

(5) The qualification of the applicant as a nonprofit institution of higher learning.

(e) Financial Awards.--The Secretary may make awards on an equal matching basis to an institute from amounts appropriated. The aggregate annual amount of the United States Government share of the awards by the Secretary may not be more than \$500,000.

(f) University Transportation Research Funds.--(1) The Secretary may make a grant under section 5505 of title 49 to an institute designated under subsection (a) for maritime and maritime intermodal research under that section as if the institute were a university transportation center.

(2) In making a grant under the authority of paragraph (1), the Secretary, through the Research and Special Programs Administration, shall advise the Maritime Administration concerning the availability of funds for the grants, and consult with the Administration on the making of the grants.

CHAPTER 503--ADMINISTRATIVE

Sec.

- 50301. Vessel Operations Revolving Fund.
- 50302. Subsidy contracts.
- 50303. Port development.
- 50304. Operating property and extending term of notes.
- 50305. Sale and transfer of property.
- 50306. Appointment of trustee or receiver and operation of vessels.
- 50307. Requiring testimony and records in investigations.

Sec. 50301. Vessel Operations Revolving Fund

(a) General.--There is a "Vessel Operations Revolving Fund" for use by the Secretary of Transportation in carrying out duties and powers related to vessel operations, including charter, operation, maintenance, reconditioning, and improvement of merchant vessels under the jurisdiction of the Secretary. The Fund has a working capital of \$20,000,000, to remain available until expended.

(b) Relationship to Other Laws.--Notwithstanding any other law, rates for shipping services provided under the Fund shall be prescribed by the Secretary and the Fund shall be credited with receipts from vessel operations conducted under the Fund. Sections 1(a) and (c), 3(c), and 4 of the Act of March 24, 1943 (50 App. U.S.C. 1291(a), (c), 1293(c), 1294), apply to those operations and to seamen employed through general agents as employees of the United States Government. Notwithstanding any other law on the employment of persons by the Government, the seamen may be employed in accordance with customary commercial practices in the maritime industry.

(c) Advancements.--With the approval of the Director of the Office of Management and Budget, the Secretary may advance amounts the Secretary considers necessary, but not more than 2 percent of vessel operating expenses, from the Fund to the appropriation "Salaries and Expenses" in carrying out duties and powers related to vessel operations, without regard to the limitations on amounts stated in that appropriation.

(d) Transfers.--The unexpended balances of working funds or of allocation accounts established after January 1, 1951, for the activities provided for in subsection (a) of this section, and receipts received from those activities, may be transferred to the Fund, which shall be available for the purposes of these working funds or allocation accounts.

(e) Limitation.--Amounts made available to the Secretary for maritime activities by this section or any other law may not be used to pay for a vessel acquired or used by the Government or lost while insured by the Government, unless the compensation to be paid (except for vessels under a construction-differential subsidy contract) is computed under section 57302 of this title as that section is interpreted by the Comptroller General.

(f) Availability for Additional Purposes.--The Fund is available for necessary expenses incurred in--

(1) protecting, preserving, maintaining, acquiring, and using vessels involved in mortgage foreclosure or forfeiture proceedings begun by the Government, including paying prior claims and liens, expenses of sale, and other related charges;

(2) the redelivery and lay-up, in the United States, of ships chartered, as of June 1, 1956, under agreements which do not call for their return to the United States;

(3) activation, repair and deactivation of merchant ships chartered for limited emergency purposes during fiscal year 1957 under the jurisdiction of the Secretary; and

(4) expenses of custody and maintenance of Government-owned vessels not in the National Defense Reserve Fleet;

(g) Expenses and Receipts Related to Charter Operations.--The Fund is available for expenses incurred in activating, repairing, and deactivating merchant vessels chartered under the jurisdiction of the Secretary. Receipts from charter operations of Government-owned vessels under the jurisdiction of the Secretary shall be credited to the Fund.

Sec. 50302. Subsidy contracts

(a) Equitable Treatment.--Subsidy contracts made under this subtitle shall be designed to serve as equitably as possible the foreign commerce requirements of the Atlantic, Gulf, Great Lakes, and Pacific port ranges of the United States. To ensure equitable treatment, each port range shall be allocated (to the extent subsidy contracts are approved for that port range) at least 10 percent of the amounts appropriated for construction-differential and operating-differential subsidies under this subtitle or another law authorizing amounts to carry out this subtitle.

(b) Preference for Citizens With Community Support.--In awarding a subsidy contract under this subtitle, the Secretary of Transportation shall give preference to persons that--

(1) are citizens of the United States; and

(2) have the financial and other support of the domestic communities primarily interested.

Sec. 50303. Port development

(a) General Requirements.--With the objective of promoting, encouraging, and developing ports and transportation facilities in connection with water commerce over

which the Secretary of Transportation has jurisdiction, the Secretary, in cooperation with the Secretary of the Army, shall--

(1) investigate territorial regions and zones tributary to ports, taking into consideration the economies of transportation by rail, water, and highway and the natural direction of the flow of commerce;

(2) investigate the causes of congestion of commerce at ports and applicable remedies;

(3) investigate the subject of water terminals, including the necessary docks, warehouses, and equipment, to devise and suggest the types most appropriate for different locations and for the most expeditious and economical transfer or interchange of passengers or property between water carriers and rail carriers;

(4) consult with communities on the appropriate location and plan of construction of wharves, piers, and water terminals;

(5) investigate the practicability and advantages of harbor, river, and port improvements in connection with foreign commerce and coastwise trade; and

(6) investigate any other matter that may tend to promote and encourage the use by vessels of ports adequate to care for the freight that naturally would pass through those ports.

(b) Submission of Findings to Surface Transportation Board.--After an investigation under subsection (a) of this section, if the Secretary of Transportation believes that the rates or practices of a rail carrier regulated by the Surface Transportation Board are detrimental to the objective specified in subsection (a), or that new rates or practices, new or additional port terminal facilities, or affirmative action by a rail carrier is necessary to promote that objective, the Secretary may submit findings to the Board for action the Board considers appropriate under existing law.

Sec. 50304. Operating property and extending term of notes

(a) General Authority.--The Secretary of Transportation may--

(1) operate or lease docks, wharves, piers, or real property under the Secretary's control; and

(2) make extensions and accept renewals of--

(A) promissory notes and other evidences of indebtedness on property; and

(B) mortgages and other contracts securing the property.

(b) Terms of Transactions.--The Secretary may decide the terms of a transaction under subsection (a) of this section, but they shall be consistent with the purposes of this chapter and sound business practice.

(c) Availability of Amounts.--Amounts received by the Secretary from a transaction under this section are available for expenditure by the Secretary as provided in this subtitle.

Sec. 50305. Sale and transfer of property

(a) Authority To Sell.--The Secretary of Transportation may sell property (other than vessels transferred under section 4 of the Merchant Marine Act, 1920, as originally enacted) on terms the Secretary considers appropriate.

(b) Transfers Between Civilian and Military Control.--(1) When the President considers it in the interest of the United States, the President may transfer to the Secretary of Transportation possession and control of property described in the 2d paragraph of section 17 of the Merchant Marine Act, 1920, as originally enacted, that is possessed and controlled by the Secretary of a military department.

(2) When the President considers it necessary, the President by executive order may transfer to the Secretary of a military department possession and control of property described in section 17 of the Merchant Marine Act, 1920, as originally enacted, that is possessed and controlled by the Secretary of Transportation. The President's order shall state the need for the transfer and the period of the need. When the President decides that the need has ended, the possession and control revert to the Secretary of Transportation. The property may not be sold except as provided by law.

Sec. 50306. Appointment of trustee or receiver and operation of vessels

(a) Appointment of Trustees and Receivers.--(1) In a proceeding in a court of the United States in which a trustee or receiver may be appointed for a corporation operating a documented vessel in foreign commerce, on which the United States Government holds a mortgage, the court may appoint the Secretary of Transportation as the sole trustee or receiver (subject to the direction of the court) if--

(A) the court finds that the appointment will--

(i) inure to the advantage of the estate and the parties in interest;
and

(ii) tend to carry out the purposes of this subtitle; and

(B) the Secretary expressly consents to the appointment.

(2) The appointment of another person as trustee or receiver without a hearing becomes effective when ratified by the Secretary, but the Secretary may demand a hearing.

(b) Operation of Vessels.--(1) If the Secretary certifies to the court that the continued operation of the vessel is essential to the foreign commerce of the United States and is reasonably calculated to carry out the purposes of this subtitle, but the court is unwilling to allow the trustee or receiver to operate the vessel in foreign commerce without financial aid from the Government pending termination of the proceeding, the court may allow the Secretary to operate the vessel, either directly or through a managing agent or operator employed by the Secretary. The Secretary must agree to comply with terms imposed by the court sufficient to protect the parties in interest. The Secretary also must agree to pay all operating losses resulting from the operation. The operation shall be for the account of the trustee or receiver.

(2) The Secretary has no claim against the corporation, its estate, or its assets for operating losses paid by the Secretary, but the Secretary may pay amounts for depreciation the Secretary considers reasonable and other amounts the court considers just. The payment of operating losses and the other amounts and compliance with terms imposed by the court shall be in satisfaction of any claim against the Secretary resulting from the operation of the vessel.

(3) A vessel operated by the Secretary under this subsection is deemed to be a vessel operated by the United States Government under chapter 307 of this title.

Sec. 50307. Requiring testimony and records in investigations

(a) General Authority.--(1) In conducting an investigation that the Secretary of Transportation considers necessary and proper to carry out this subtitle, the Secretary may--

(A) administer oaths;

(B) take evidence; and

(C) subpoena persons to testify and produce records.

(2) Persons may be required to attend or produce records from any place in the United States at any designated place of hearing. Persons subpoenaed by the Secretary shall be paid the same fees and mileage paid to witnesses in the courts of the United States.

(b) Enforcement of Subpoenas.--If a person disobeys a subpoena issued under this section, the Secretary may seek an order enforcing the subpoena from the district court of the United States for the district in which the person resides or does business. Process may be served in the judicial district in which the person resides or is found. The court

may issue an order to obey the subpoena and punish a refusal to obey as a contempt of court.

PART B--MERCHANT MARINE SERVICE

CHAPTER 511--GENERAL

Sec.

51101. Policy.

51102. Definitions.

51103. General authority of the Secretary of Transportation.

51104. General authority of the Secretary of the Navy.

Sec. 51101. Policy

It is the policy of the United States Government that merchant marine vessels of the United States should be operated by highly trained and efficient citizens of the United States and that the United States Navy and the merchant marine of the United States should work closely together to promote the maximum integration of the total seapower forces of the United States.

Sec. 51102. Definitions

In this part--

(1) "Academy" means the United States Merchant Marine Academy located at Kings Point, New York, and maintained under chapter 513 of this title;

(2) "merchant marine officer" means an individual issued a license by the Coast Guard authorizing service as--

(A) a master, mate, or pilot on a documented vessel that--

(i) is of at least 1,000 gross tons as measured under section 14502 of this title or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title; and

(ii) operates on the oceans or the Great Lakes; or

(B) an engineer officer on a documented vessel propelled by machinery of at least 4,000 horsepower.

(3) "State maritime academy" means--

(A) a State maritime academy or college sponsored by a State and assisted under chapter 515 of this title; and

(B) a regional maritime academy or college sponsored by a group of States and assisted under chapter 515 of this title.

Sec. 51103. General authority of the Secretary of Transportation

(a) Education and Training.--The Secretary of Transportation may provide for the education and training of citizens of the United States for the safe and efficient operation of the merchant marine of the United States at all times, including operation as a naval and military auxiliary in time of war or national emergency.

(b) Surplus Vessels and Equipment for Instructional Purposes.--(1) The Secretary may cooperate with and assist the institutions named in paragraph (2) of this subsection by making vessels, shipboard equipment, and other marine equipment, owned by the United States Government and determined to be surplus, available to those institutions for instructional purposes, by gift, loan, sale, lease, or charter on terms the Secretary considers appropriate.

(2) The institutions referred to in paragraph (1) of this subsection are--

(A) the United States Merchant Marine Academy;

(B) a State maritime academy; and

(C) a nonprofit training institution jointly approved by the Secretary and, if different, the head of the department in which the Coast Guard is operating as offering training courses that satisfy regulations of the Government for maritime training.

(c) Assistance From Other Agencies.--(1) The Secretary may secure directly from an agency, on a reimbursable basis, information, facilities, and equipment necessary to carry out this part.

(2) At the request of the Secretary, the head of an agency (including a military department) may detail, on a reimbursable basis, personnel from the agency to the Secretary to assist in carrying out this part.

(d) Academy Personnel.--To carry out this part, the Secretary may--

(1) employ an individual as a professor, lecturer, or instructor at the Academy, without regard to the provisions of title 5 related to appointments in the competitive service; and

(2) pay the individual without regard to chapter 51 and subchapter III of chapter 53 of title 5.

Sec. 51104. General authority of the Secretary of the Navy

The Secretary of the Navy, in cooperation with the Maritime Administrator and the head of each State maritime academy, shall ensure that--

(1) the training of future merchant marine officers at the United States Merchant Marine Academy and at State maritime academies includes programs for naval science training in the operation of merchant vessels as a naval and military auxiliary; and

(2) naval officer training programs for future officers, to the extent possible, are maintained at designated maritime academies consistent with Navy standards and needs.

CHAPTER 513--UNITED STATES MERCHANT MARINE ACADEMY

Sec.

- 51301. Maintenance of the Academy.
- 51302. Nomination and competitive appointment of cadets.
- 51303. Non-competitive appointments.
- 51304. Prohibited basis for appointment.
- 51305. Presidential designations.
- 51306. Secretary of State designations.
- 51307. Secretary of Interior designations.
- 51308. Places of training.
- 51309. Allowances for cadets.
- 51310. Academic degree.
- 51311. Cadet commitment agreements.
- 51312. Deferment of service obligation under cadet commitment agreements.
- 51313. Midshipman status in the Naval Reserve.
- 51314. Board of Visitors.
- 51315. Advisory Board.

Sec. 51301. Maintenance of the Academy

There is a United States Merchant Marine Academy at Kings Point, New York. The Secretary of Transportation shall maintain the Academy to prepare individuals for service in the merchant marine of the United States.

Sec. 51302. Nomination and competitive appointment of cadets

(a) Requirements.--An individual may be nominated for a competitive appointment as a cadet at the United States Merchant Marine Academy only if the individual--

(1) is a citizen or national of the United States; and

(2) satisfies the minimum requirements that the Secretary of Transportation shall establish.

(b) Nominators.--Nominations for competitive appointments for the positions allocated under subsection (c) of this section may be made as follows:

(1) A Senator may nominate residents of the State represented by that Senator.

(2) A Member of the House of Representatives may nominate residents of the State in which the congressional district represented by that Member is located.

(3) A Delegate to the House of Representatives from the District of Columbia, the Virgin Islands, Guam, or American Samoa may nominate residents of the jurisdiction represented by that Delegate.

(4) The Resident Commissioner to the United States from Puerto Rico may nominate residents of Puerto Rico.

(5) The Governor of the Northern Mariana Islands may nominate residents of the Northern Mariana Islands.

(6) The Panama Canal Commission may nominate--

(A) residents, or sons or daughters of residents, of an area or installation in Panama and made available to the United States under the Panama Canal Treaty of 1977, the agreements relating to and implementing that Treaty, signed September 7, 1977, and the Agreement Between the United States of America and the Republic of Panama Concerning Air Traffic Control and Related Services, concluded January 8, 1979; and

(B) sons or daughters of personnel of the United States Government and the Panama Canal Commission residing in Panama.

(c) Allocation of Positions.--Positions for competitive appointments shall be allocated each year as follows:

(1) Positions shall be allocated for residents of each State nominated by the Members of Congress from that State in proportion to the representation in Congress from that State.

(2) Four positions shall be allocated for residents of the District of Columbia nominated by the Delegate to the House of Representatives from the District of Columbia.

(3) One position each shall be allocated for residents of the Virgin Islands, Guam, and American Samoa nominated by the Delegates to the House of Representatives from the Virgin Islands, Guam, and American Samoa, respectively.

(4) One position shall be allocated for a resident of Puerto Rico nominated by the Resident Commissioner to the United States from Puerto Rico.

(5) One position shall be allocated for a resident of the Northern Mariana Islands nominated by the Governor of the Northern Mariana Islands.

(6) Two positions shall be allocated for individuals nominated by the Panama Canal Commission.

(d) Competitive System for Appointment.--(1) The Secretary shall establish a competitive system for selecting individuals nominated under subsection (b) of this section to fill the positions allocated under subsection (c) of this section. The system must determine the relative merit of each individual based on competitive examinations, an assessment of the individual's academic background, and other effective indicators of motivation and ability to complete training successfully at the Academy.

(2) The Secretary shall appoint individuals to fill the positions allocated under subsection (c) of this section for each jurisdiction in the order of merit of the individuals nominated from that jurisdiction.

(3) If positions remain unfilled after the appointments are made under paragraph (2) of this subsection, the Secretary shall appoint individuals to fill the positions in the order of merit of the remaining individuals nominated from all jurisdictions.

Sec. 51303. Non-competitive appointments

The Secretary of Transportation may appoint each year without competition as cadets at the United States Merchant Marine Academy not more than 40 qualified individuals with qualities the Secretary considers to be of special value to the Academy. In making these appointments, the Secretary shall try to achieve a national demographic balance at the Academy.

Sec. 51304. Prohibited basis for appointment

Preference may not be given to an individual for appointment as a cadet at the United States Merchant Marine Academy because one or more members of the individual's immediate family are alumni of the Academy.

Sec. 51305. Presidential designations

(a) General Authority and Limitations.--The President may designate individuals from countries in the Western Hemisphere other than the United States to receive instruction at the United States Merchant Marine Academy. Not more than 12 individuals may receive instruction under this section at the same time, and not more than 2 individuals from the same country may receive instruction under this section at the same time.

(b) Allowances and Regulations.--Individuals receiving instruction under this section are entitled to the same allowances and are subject to the same regulations on admission, attendance, discipline, resignation, discharge, dismissal, and graduation, as cadets at the Academy appointed from the United States.

Sec. 51306. Secretary of State designations

(a) General Authority and Limitations.--(1) With the approval of the Secretary of State, the Secretary of Transportation may allow individuals from countries other than the United States to receive instruction at the United States Merchant Marine Academy. Not more than 30 individuals may receive instruction under this paragraph at the same time.

(2) With the approval of the Secretary of State, the Secretary of Transportation may allow individuals from Panama to receive instruction at the Academy. Designations under this paragraph are in addition to selections of individuals from Panama under any other provision of this chapter.

(b) Reimbursement for Costs.--(1) The Secretary of Transportation shall ensure that the country from which an individual comes who is designated under subsection (a)(1) of this section will reimburse the Secretary for the cost (as determined by the Secretary) of the instruction and allowances received by the individual.

(2) The Secretary shall be reimbursed for the cost (as determined by the Secretary) of the instruction and allowances received by an individual designated under subsection (a)(2) of this section.

(c) Allowances and Regulations.--Individuals receiving instruction under this section are entitled to the same allowances and are subject to the same regulations on admission, attendance, discipline, resignation, discharge, dismissal, and graduation, as cadets at the Academy appointed from the United States.

Sec. 51307. Secretary of Interior designations

(a) General Authority and Limitation.--With the approval of the Secretary of Transportation, the Secretary of the Interior may designate individuals from the Trust Territory of the Pacific Islands to receive instruction at the United States Merchant Marine Academy. Not more than 4 individuals may receive instruction under this section at the same time.

(b) Allowances and Regulations.--Subject to exceptions agreed to by both Secretaries, individuals receiving instruction under this section are entitled to the same allowances and are subject to the same regulations on admission, attendance, discipline, resignation, discharge, dismissal, and graduation, as cadets at the Academy appointed from the United States.

Sec. 51308. Places of training

The Secretary of Transportation may provide for the training of cadets at the United States Merchant Marine Academy--

- (1) on vessels owned or subsidized by the United States Government;
- (2) on other documented vessels, with the permission of the owner; and
- (3) in shipyards or plants and with industrial or educational organizations.

Sec. 51309. Allowances for cadets

The Secretary of Transportation shall provide cadets at the United States Merchant Marine Academy--

- (1) all required uniforms and textbooks; and
- (2) allowances for transportation (including reimbursement of traveling expenses) when traveling under orders as a cadet.

Sec. 51310. Academic degree

(a) General Authority.--(1) The Superintendent of the United States Merchant Marine Academy may confer the degree of bachelor of science on an individual who--

(A) has satisfied the conditions prescribed by the Secretary of Transportation; and

(B) if a citizen of the United States, has passed the examination for a merchant marine officer's license.

(2) An individual not allowed to take the examination for a merchant marine officer's license only because of physical disqualification may not be denied a degree for not taking the examination.

(b) Graduation Not Entitlement To Hold License.--Graduation from the Academy does not entitle an individual to hold a license authorizing service on a merchant vessel.

Sec. 51311. Cadet commitment agreements

(a) Agreement Requirements.--A citizen of the United States appointed as a cadet at the United States Merchant Marine Academy must sign, as a condition of the appointment, an agreement to--

(1) complete the course of instruction at the Academy unless separated by the Academy;

(2) fulfill the requirements for a license as an officer in the merchant marine of the United States before graduation from the Academy;

(3) maintain a license as a U.S. merchant marine officer for at least 6 years after graduation;

(4) apply for, and accept if tendered, an appointment as a commissioned officer in the Naval Reserve (including the Merchant Marine Reserve, Naval Reserve), the Coast Guard Reserve, or any other reserve unit of an armed force of the United States, and, if tendered the appointment, to serve for at least 6 years after graduation from the Academy;

(5) serve foreign and domestic commerce and the national defense of the United States for at least 5 years after graduation from the Academy--

(A) as a merchant marine officer on a documented vessel or a vessel owned and operated by the United States Government or by a State;

(B) as an employee in a United States maritime-related industry, profession, or marine science (as decided by the Secretary of Transportation), if the Secretary decides that service under subclause (A) of this clause is not available to the individual;

(C) as a commissioned officer on active duty in an armed force of the United States or in the National Oceanic and Atmospheric Administration; or

(D) by a combination of the service alternatives referred to in subclauses (A)-(C) of this clause; and

(6) report to the Secretary on compliance with clauses (1)-(5) of this subsection.

(b) Failure To Complete Course of Instruction.--If the Secretary finds that an individual who has attended the Academy for at least 2 years has failed to carry out that part of the agreement described in subsection (a)(1) of this section, the individual may be ordered by the Secretary of the Navy to serve on active duty in the Navy for a period of not more than 2 years. The Secretary of Transportation may waive the active-duty requirement of this subsection for hardship as decided by the Secretary.

(c) Failure To Carry Out Other Requirements.--(1) If the Secretary of Transportation finds that an individual has failed to carry out any part of the agreement described in subsection (a)(2)-(6) of this section, the individual may be ordered to serve on active duty for a period of at least 3 years but not more than the unexpired period (as determined by the Secretary) of the service required by subsection (a)(5) of this section. In consultation with the Secretary of Defense, the Secretary of Transportation shall decide in which service the individual shall serve. The Secretary of Transportation may waive the active-duty requirement of this subsection for hardship as decided by the Secretary.

(2) If the Secretary of Defense is unable or unwilling to order an individual to serve on active duty under paragraph (1) of this subsection, the Secretary of Transportation may recover from the individual the costs of education provided by the Government. If the Secretary of Transportation decides to seek recovery, the Secretary shall request the Attorney General to bring a civil action to recover those costs.

Sec. 51312. Deferment of service obligation under cadet commitment agreements

The Secretary of Transportation may defer the service commitment of an individual under section 51311(a)(5) of this title (as specified in the cadet commitment agreement) for not more than 2 years if the individual is engaged in a graduate course of study approved by the Secretary. However, deferment of service as a commissioned officer on active duty must be approved by the Secretary of the affected military department (or the Secretary of Commerce, for service with the National Oceanic and Atmospheric Administration).

Sec. 51313. Midshipman status in the Naval Reserve

(a) Application Requirement.--Before being appointed as a cadet at the United States Merchant Marine Academy, a citizen of the United States must agree to apply for midshipman status in the Naval Reserve (including the Merchant Marine Reserve, Naval Reserve).

(b) Appointment.--(1) A citizen of the United States appointed as a cadet at the Academy shall be appointed by the Secretary of the Navy as a midshipman in the Naval Reserve (including the Merchant Marine Reserve, Naval Reserve).

(2) The Secretary of the Navy shall provide for cadets of the Academy who are midshipmen in the United States Naval Reserve to be--

(A) issued an identification card (referred to as a "military ID card"); and

(B) entitled to all rights and privileges, under the same eligibility criteria, as apply to other members of the Ready Reserve of the reserve components of the Armed Forces.

(3) The Secretary of the Navy shall carry out paragraphs (1) and (2) in coordination with the Secretary of Transportation.

Sec. 51314. Board of Visitors

(a) General.--The United States Merchant Marine Academy has a Board of Visitors that shall visit the Academy annually on a date named by the Secretary of Transportation and make recommendations to the Secretary on the operation of the Academy. The Board has a term of 2 years beginning at the beginning of each Congress.

(b) Appointment.--(1) The Board is composed of--

(A) 2 Senators appointed by the chairman of the Committee on Commerce, Science, and Transportation of the Senate;

(B) 3 Members of the House of Representatives appointed by the chairman of the Committee on Transportation and Infrastructure of the House of Representatives;

(C) one Senator appointed by the Vice President;

(D) 2 Members of the House of Representatives appointed by the Speaker of the House of Representatives; and

(E) the chairmen of the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, as ex officio members.

(2) If an appointed member of the Board is unable to visit the Academy as provided in subsection (a) of this section, another individual may be appointed as a substitute in the manner provided in paragraph (1) of this subsection.

(c) Staff.--The chairmen of the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives may designate staff members of their committees to serve without reimbursement as staff for the Board.

(d) Travel Expenses.--When serving away from home or regular place of business, a member of the Board or a staff member designated under subsection (c) of this section shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5.

Sec. 51315. Advisory Board

(a) General.--The United States Merchant Marine Academy has an Advisory Board that shall visit the Academy at least once during each academic year to examine the course of instruction and management of the Academy and to advise the Maritime Administrator and the Superintendent of the Academy.

(b) Appointment and Terms.--The Board is composed of not more than 7 individuals appointed by the Secretary of Transportation. The individuals must be distinguished in education and other fields related to the Academy. Members of the Board are appointed for terms of not more than 3 years and may be reappointed. The Secretary shall designate one of the members as chairman.

(c) Travel Expenses.--When serving away from home or regular place of business, a member of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5.

(d) Relationship to Other Law.--The Federal Advisory Committee Act (5 App. U.S.C.) does not apply to the Board.

CHAPTER 515--STATE MARITIME ACADEMY SUPPORT PROGRAM

Sec.

51501. General support program.

51502. Detailing of personnel.

51503. Regional maritime academies.

51504. Use of training vessels.

51505. Annual payments for maintenance and support.

51506. Conditions to receiving payments and use of vessels.

51507. Places of training.

51508. Allowances for students.

51509. Student incentive payment agreements.

51510. Deferment of service obligation under student incentive payment agreements.

51511. Midshipman status in the Naval Reserve.

Sec. 51501. General support program

(a) Assistance to State Maritime Academies.--The Secretary of Transportation shall cooperate with and assist State maritime academies in providing instruction to individuals to prepare them for service in the merchant marine of the United States.

(b) Course Development.--The Secretary shall provide to each State maritime academy guidance and assistance in developing courses on the operation and maintenance of new vessels, on equipment, and on innovations being introduced to the merchant marine of the United States.

Sec. 51502. Detailing of personnel

At the request of the chief executive officer of a State, the President may detail, without reimbursement, personnel of the Navy, the Coast Guard, and the Maritime Service to a State maritime academy to serve as a superintendent, professor, lecturer, or instructor at the academy.

Sec. 51503. Regional maritime academies

The chief executive officers of the States cooperating to sponsor a regional maritime academy shall designate in writing one of those States to conduct the affairs of that academy. A regional maritime academy is eligible for assistance from the United States Government on the same basis as a State maritime academy sponsored by a single State.

Sec. 51504. Use of training vessels

(a) Applications To Use Vessels.--The chief executive officer of a State sponsoring a State maritime academy (or the chief executive officer of the State designated to conduct the affairs of a regional maritime academy) may apply in writing to the Secretary of Transportation to obtain the use of a training vessel for the academy. A vessel provided under this section remains the property of the United States Government.

(b) General Authority.--Subject to subsection (c) of this section, the Secretary may provide to a State maritime academy, for use as a training vessel, a suitable vessel under the control of the Secretary or made available to the Secretary under subsection (e) of this section. If a suitable vessel is not available, the Secretary may build and provide a suitable vessel.

(c) Approval Requirements.--The Secretary may provide a vessel under this section only if--

- (1) an application has been made under subsection (a) of this section;
- (2) the State maritime academy satisfies section 51506(a) of this title; and
- (3) a suitable port will be available for the safe mooring of the vessel while the academy is using the vessel.

(d) Preparation and Maintenance.--A vessel provided under this section shall be--

(1) repaired, reconditioned, and equipped (with all apparel, charts, books, and instruments of navigation) as necessary for use as a training vessel; and

(2) maintained in good repair by the Secretary.

(e) Agency Vessels.--An agency may provide to the Secretary, for use by a State maritime academy, a vessel or equipment that--

(1) is suitable for training purposes; and

(2) can be provided without detriment to the service to which the vessel or equipment is assigned.

(f) Fuel Costs.--The Secretary may pay to a State maritime academy the costs of fuel used by a vessel provided under this section when used for training.

(g) Removing Vessels From Service and Vessel Sharing.--The Secretary may not--

(1) take a vessel, currently in use as a training vessel under this section, out of service to implement an alternative program (including vessel sharing) unless the vessel is incapable of being maintained in good repair as required by subsection (d) of this section; or

(2) implement a program requiring a State maritime academy to share its training vessel with another State maritime academy, except with the express consent of Congress.

Sec. 51505. Annual payments for maintenance and support

(a) Payment Agreements.--The Secretary of Transportation may make an agreement (effective for not more than 4 years) with the following academies to provide annual payments to those academies for their maintenance and support:

(1) One State maritime academy in each State that satisfies section 51506(a) of this title.

(2) Each regional maritime academy that satisfies section 51506(a) of this title.

(b) Payments.--(1) Subject to paragraph (2) of this subsection, an annual payment to an academy under subsection (a) of this section shall be at least equal to the amount given to the academy for its maintenance and support by the State in which it is located, or, for a regional maritime academy, by all States cooperating to sponsor the academy.

(2) The amount under paragraph (1) of this subsection may not be more than \$25,000. However, if the academy satisfies section 51506(b) of this title, the amount shall be--

(A) \$100,000 for a State maritime academy; and

(B) \$200,000 for a regional maritime academy.

Sec. 51506. Conditions to receiving payments and use of vessels

(a) General Conditions.--As conditions to receiving an annual payment or the use of a vessel under this chapter, a State maritime academy must--

(1) provide courses of instruction on navigation, marine engineering (including steam and diesel propulsion), the operation and maintenance of new vessels and equipment, and innovations being introduced to the merchant marine of the United States;

(2) agree in writing to conform to the standards for courses, training facilities, admissions, and instruction that the Secretary of Transportation may establish after consultation with the superintendents of State maritime academies; and

(3) agree in writing to require, as a condition for graduation, that each individual who is a citizen of the United States and who is attending the academy in a merchant marine officer preparation program pass the examination required for the issuance of a license under section 7101 of this title.

(b) Additional Condition to Payments of More Than \$25,000.--As a condition to receiving an annual payment of more than \$25,000 under section 51505 of this title, a State maritime academy also must agree to admit each year a number of citizens of the United States who meet its admission requirements and reside in a State not supporting that academy. The Secretary shall determine the number of individuals to be admitted by each academy under this subsection. The number may not be more than one-third of the total number of individuals attending the academy at any time.

Sec. 51507. Places of training

The Secretary of Transportation may provide for the training of students attending a State maritime academy--

(1) on vessels owned or subsidized by the United States Government;

(2) on other documented vessels, with the permission of the owner; and

(3) in shipyards or plants and with industrial or educational organizations.

Sec. 51508. Allowances for students

A student at a State maritime academy is entitled to allowances for transportation (including reimbursement of traveling expenses) when traveling under orders to receive training under section 51507 of this title, as provided in regulations prescribed by the Secretary of Transportation.

Sec. 51509. Student incentive payment agreements

(a) General Authority.--If a State maritime academy has an agreement with the Secretary of Transportation under section 51505 of this title, the Secretary may make an agreement with a student at the academy who is a citizen of the United States to make student incentive payments to the individual. An agreement with a student may not be effective for more than 4 academic years. The Secretary shall allocate payments under this section among the various State maritime academies in an equitable way.

(b) Payments.--Payments under an agreement under this section shall be equal to \$3,000 each academic year and be paid, as prescribed by the Secretary, while the individual is attending the academy. The payments shall be used for uniforms, books, and subsistence.

(c) Midshipman and Enlisted Reserve Status.--An agreement under this section shall require the student to accept midshipman and enlisted reserve status in the Naval Reserve (including the Merchant Marine Reserve, Naval Reserve) before receiving any payments under the agreement.

(d) Agreement Requirements.--An agreement under this section shall require the student to--

(1) complete the course of instruction at the academy the individual is attending unless separated by the academy;

(2) take the examination for a license as an officer in the merchant marine of the United States before graduation from the academy and meet the requirements for such a license within 3 months after graduation from the academy;

(3) maintain a license as a merchant marine officer for at least 6 years after graduation;

(4) accept, if tendered, an appointment as a commissioned officer in the Naval Reserve (including the Merchant Marine Reserve, Naval Reserve), the Coast Guard Reserve, or any other reserve unit of an armed force of the United States, and, if tendered the appointment, to serve for at least 6 years after graduation from the academy;

(5) serve foreign and domestic commerce and the national defense of the United States for at least 3 years after graduation from the academy--

(A) as a merchant marine officer on a documented vessel or a vessel owned and operated by the United States Government or by a State;

(B) as an employee in a United States maritime-related industry, profession, or marine science (as decided by the Secretary), if the Secretary decides that service under subclause (A) of this clause is not available to the individual;

(C) as a commissioned officer on active duty in an armed force of the United States or in the National Oceanic and Atmospheric Administration; or

(D) by a combination of the service alternatives referred to in subclauses (A)-(C) of this clause; and

(6) report to the Secretary on compliance with clauses (1)-(5) of this subsection.

(e) Failure To Complete Course of Instruction.--If the Secretary finds that an individual who has accepted the payments described in subsection (b) of this section has failed to carry out that part of the agreement described in subsection (d)(1) of this section, the individual may be ordered by the Secretary of the Navy to serve on active duty in the Navy for a period of not more than 2 years. The Secretary of Transportation may waive the active-duty requirement of this subsection for hardship as decided by the Secretary.

(f) Failure To Carry Out Other Requirements.--If the Secretary of Transportation finds that an individual has failed to carry out any part of the agreement described in subsection (d)(2)-(6) of this section, the individual may be ordered to serve on active duty for a period of at least 2 years but not more than the unexpired period (as determined by the Secretary) of the service required by subsection (d)(5) of this section. In consultation with the Secretary of Defense, the Secretary of Transportation shall decide in which service the individual shall serve. The Secretary of Transportation may waive the active-duty requirement of this subsection for hardship as decided by the Secretary.

Sec. 51510. Deferment of service obligation under student incentive payment agreements

The Secretary of Transportation may defer the service commitment of an individual under section 51509(d)(5) of this title (as specified in the agreement under section 51509) for not more than 2 years if the individual is engaged in a graduate course of study approved by the Secretary. However, deferment of service as a commissioned officer on active duty must be approved by the Secretary of the affected military

department (or the Secretary of Commerce, for service with the National Oceanic and Atmospheric Administration).

Sec. 51511. Midshipman status in the Naval Reserve

A citizen of the United States attending a State maritime academy may be appointed by the Secretary of the Navy as a midshipman in the Naval Reserve (including the Merchant Marine Reserve, Naval Reserve).

CHAPTER 517--OTHER SUPPORT FOR MERCHANT MARINE TRAINING

Sec.

51701. United States Maritime Service.

51702. Civilian nautical schools.

51703. Additional training.

51704. Training for maritime oil pollution prevention, response, and clean-up.

Sec. 51701. United States Maritime Service

(a) General Authority.--The Secretary of Transportation may establish and maintain a voluntary organization, to be known as the United States Maritime Service, for the training of citizens of the United States to serve on merchant vessels of the United States.

(b) Specific Authority.--The Secretary may--

(1) determine the number of individuals to be enrolled for training and reserve purposes in the Service;

(2) fix the rates of pay and allowances of the individuals without regard to chapter 51 or subchapter III of chapter 53 of title 5;

(3) prescribe the course of study and the periods of training for the Service; and

(4) prescribe the uniform of the Service and the regulations on providing and wearing the uniform.

(c) Ranks, Grades, and Ratings.--The ranks, grades, and ratings for personnel of the Service shall be the same as those prescribed for personnel of the Coast Guard.

Sec. 51702. Civilian nautical schools

(a) Definition.--In this section, "civilian nautical school" means a school operated in the United States (except the United States Merchant Marine Academy, a State maritime academy, or another school operated by the United States Government) that

offers instruction to individuals quartered on a vessel primarily to train them for service in the merchant marine.

(b) Inspection, Rating, and Certification.--(1) The Secretary may inspect any civilian nautical school.

(2) Under regulations the Secretary may prescribe, the Secretary may provide for the rating and certification of civilian nautical schools as to the adequacy of their course of instruction, the competence of their instructors, and the suitability of the equipment used in their course of instruction.

Sec. 51703. Additional training

(a) General Authority.--The Secretary of Transportation may provide additional training on maritime subjects to supplement other training opportunities for--

(1) the personnel of the merchant marine of the United States; and

(2) individuals preparing for a career in the merchant marine of the United States.

(b) Equipment, Supplies, and Contracts.--The Secretary may--

(1) prepare or buy equipment or supplies required for the additional training; and

(2) without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), make contracts for services the Secretary considers necessary to prepare the equipment and supplies and to supervise and administer the additional training.

Sec. 51704. Training for maritime oil pollution prevention, response, and clean-up

(a) Assistance in Establishing Program.--The Secretary of Transportation shall assist maritime training institutions approved by the Secretary in establishing a training program for maritime oil pollution prevention, response, and clean-up.

(b) Providing Training Vessels.--Subject to subsection (c) of this section, the Secretary may provide, with title free of all liens, to maritime training institutions that have a program established under subsection (a) of this section, offshore supply vessels and tug-supply vessels that were built in the United States and are in the possession of the Maritime Administration because of a default on a loan guaranteed under title XI of the Merchant Marine Act, 1936, or part D of this subtitle.

(c) Requirements.--In addition to any other requirements the Secretary considers appropriate, the following requirements apply to vessels provided under this section:

(1) The vessel shall be offered to the institution at a location selected by the Secretary.

(2) The institution shall use the vessel to train students and appropriate maritime industry personnel in oil spill prevention, response, clean-up, and related skills.

(3) The institution shall make the vessel and qualified students available to appropriate United States Government, State, and local oil spill response authorities when there is a maritime oil spill.

(4) The institution may not sell, trade, charter, donate, scrap, or in any way alter or dispose of the vessel without prior approval of the Secretary.

(5) The institution may not use the vessel in competition with a privately-owned vessel documented under chapter 121 of this title or titled under the law of a State, unless necessary to carry out this section.

(6) When the institution can no longer use the vessel for its training program, the institution shall return the vessel to the Secretary. The Secretary shall take possession at the institution and thereafter may provide the vessel to another institution under this section or dispose of the vessel.

CHAPTER 519--MERCHANT MARINE AWARDS

Sec.

51901. Awards for individual acts or service.

51902. Gallant Ship Award.

51903. Multiple awards.

51904. Presentation to representatives.

51905. Flags and grave markers.

51906. Issuance of Special Certificates by Maritime Administrator.

51907. Manufacture and sale of awards and replacements.

51908. Prohibition against unauthorized manufacture, sale, possession, or display of awards.

Sec. 51901. Awards for individual acts or service

(a) General Authority.--The Secretary of Transportation may award decorations and medals of appropriate design (including ribbons, ribbon bars, emblems, rosettes, miniature facsimiles, plaques, citations, or other suitable devices or insignia) for individual acts or service in the merchant marine of the United States. The design may be similar to the design of a decoration or medal authorized for members of the armed forces for similar acts or service.

(b) Specific Authority.--The Secretary may award--

(1) a Merchant Marine Distinguished Service Medal to an individual for outstanding acts, conduct, or valor beyond the line of duty;

(2) a Merchant Marine Meritorious Service Medal to an individual for meritorious acts, conduct, or valor in the line of duty, but not of the outstanding character that would warrant the award of the Merchant Marine Distinguished Service Medal;

(3) a decoration or medal to an individual for service during a war, national emergency proclaimed by the President or Congress, or operations by the armed forces outside the continental United States under conditions of danger to life and property; and

(4) a decoration or medal to an individual for other acts or service of conspicuous gallantry, intrepidity, and extraordinary heroism under conditions of danger to life and property that would warrant a similar decoration or medal for a member of the armed forces.

Sec. 51902. Gallant Ship Award

(a) Awards to Vessels.--The Secretary of Transportation may award a Gallant Ship Award and a citation to a vessel (including a foreign vessel) participating in outstanding or gallant action in a marine disaster or other emergency to save life or property at sea. The Secretary may award a plaque to the vessel, and a replica of the plaque may be preserved as a permanent historical record.

(b) Awards to Crews.--The Secretary of Transportation may award an appropriate citation ribbon bar to the master and each individual serving, at the time of the action, on a vessel issued an award under subsection (a) of this section.

(c) Consultation.--The Secretary of Transportation shall consult with the Secretary of State before awarding an award or citation to a foreign vessel or its crew under this section.

Sec. 51903. Multiple awards

An individual may not be awarded more than one of any type of decoration or medal under this chapter. For each succeeding act or service justifying the same decoration or medal, a suitable device may be awarded to be worn with the decoration or medal.

Sec. 51904. Presentation to representatives

If an individual to be issued an award under this chapter is unable to accept the award personally, the Secretary of Transportation may present the award to an appropriate representative.

Sec. 51905. Flags and grave markers

The Secretary of Transportation may issue, at no cost, a flag of the United States and a grave marker to the family or personal representative of a deceased individual who served in the merchant marine of the United States in support of the armed forces of the United States or its allies during a war or national emergency. This section does not apply if issuance of a flag and grave marker is authorized under another law.

Sec. 51906. Issuance of Special Certificates by Maritime Administrator

(a) General Authority.--The Maritime Administrator may issue a special certificate to an individual, or the personal representative of an individual, in recognition of service of that individual in the merchant marine of the United States, if the service has been determined to be active duty under section 401 of the GI Bill Improvement Act of 1977 (38 U.S.C. 106 note).

(b) Relationship to Other Laws.--Issuance of a certificate under subsection (a) of this section does not entitle an individual to any rights, privileges, or benefits under a law of the United States.

Sec. 51907. Manufacture and sale of awards and replacements

The Secretary of Transportation may--

(1) authorize private persons to manufacture decorations and medals authorized under this chapter or a prior law; and

(2) provide at cost, or authorize private persons to sell at reasonable prices, replacements for those decorations and medals.

Sec. 51908. Prohibition against unauthorized manufacture, sale, possession, or display of awards

(a) Prohibition.--Except as authorized under this chapter, a person may not manufacture, sell, possess, or display a decoration or medal provided for in this chapter.

(b) Civil Penalty.--A person violating this section is liable to the United States Government for a civil penalty of not more than \$2,000.

CHAPTER 521--MISCELLANEOUS

Sec.

52101. Reemployment rights for certain merchant seamen.

Sec. 52101. Reemployment rights for certain merchant seamen

(a) In General.--An individual who is certified by the Secretary of Transportation under subsection (c) of this section shall be entitled to reemployment rights and other benefits substantially equivalent to the rights and benefits provided for by chapter 43 of title 38 for any member of a reserve component of the armed forces of the United States who is ordered to active duty.

(b) Time for Application.--An individual may submit an application for certification under subsection (c) of this section to the Secretary not later than 45 days after the date the individual completes a period of employment described in subsection (c)(1)(A) with respect to which the application is submitted.

(c) Certification Determination.--Not later than 20 days after the date the Secretary receives from an individual an application for certification under this subsection, the Secretary shall--

(1) determine whether the individual--

(A) was employed in the activation or operation of a vessel--

(i) in the National Defense Reserve Fleet maintained under section 59701 of this title in a period in which the vessel was in use or being activated for use under subsection (b) of that section;

(ii) requisitioned or purchased under chapter 573 of this title; or

(iii) owned, chartered, or controlled by the United States Government and used by the Government for a war, armed conflict, national emergency, or maritime mobilization need (including for training purposes or testing for readiness and suitability for mission performance); and

(B) during the period of that employment, possessed a valid license, certificate of registry, or merchant mariner's document issued under chapter 71 or 73 of this title; and

(2) if the Secretary makes affirmative determinations under paragraph (1)(A) and (B), certify that individual under this subsection.

(d) Equivalence to Military Selective Service Act Certificate.--For purposes of reemployment rights and benefits provided by this section, a certification under

subsection (c) of this section shall be considered to be the equivalent of a certificate described in section 9(a) of the Military Selective Service Act (50 App. U.S.C. 459(a)).

PART C--CONSTRUCTION AND OPERATING ASSISTANCE

CHAPTER 531--MARITIME SECURITY FLEET

SUBCHAPTER I--GENERAL

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SUBCHAPTER I--GENERAL

Sec. 53101. Definitions

In this chapter--

(1) "bulk cargo" means cargo that is loaded and carried in bulk without mark or count.

(2) "chemical parcel-tanker" means a vessel that has--

(A) a cargo-carrying capability consisting of individual cargo tanks for bulk chemicals that--

(i) are a permanent part of the vessel; and

(ii) have segregation capability with piping systems to permit simultaneous carriage of several bulk chemical cargoes with minimum risk of cross-contamination; and

(B) a valid certificate of fitness under the International Maritime Organization Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk.

(3) "contractor" means an owner or operator of a vessel that enters into an operating agreement for the vessel with the Secretary of Transportation under this chapter.

(4) "LASH vessel" means a lighter aboard ship vessel.

(5) "ocean common carrier" means a person that--

(A) holds itself out to the general public to operate vessels to provide transportation by water of passengers or cargo between the United States and a foreign country for compensation, except a common carrier engaged in ocean transportation by ferry boat, ocean tramp, or chemical parcel-tanker;

(B) assumes responsibility for the transportation from the port or point of receipt to the port or point of destination; and

(C) uses, for all or part of that transportation, a vessel operating on the high seas or the Great Lakes between a port in the United States and a port in a foreign country.

(6) "United States-documented vessel" means a vessel documented under chapter 121 of this title.

Sec. 53102. Establishment of fleet

(a) General.--The Secretary of Transportation shall establish a fleet of active, militarily useful, privately-owned vessels to meet national defense and other security requirements and to maintain a United States presence in international commercial shipping. The Fleet shall consist of privately-owned vessels of the United States for which there are in effect operating agreements under this chapter. The Fleet shall be known as the Maritime Security Fleet.

(b) Vessel Eligibility.--A vessel is eligible to be included in the Fleet if--

(1) the vessel is self-propelled;

(2) the vessel--

(A) is operated by a person as an ocean common carrier;

(B) whether in commercial service, on charter to the Secretary of Defense, or in other employment, is either--

(i) a roll-on/roll-off vessel with a carrying capacity of at least 80,000 square feet or 500 twenty-foot equivalent units; or

(ii) a LASH vessel with a barge capacity of at least 75 barges; or

(C) is any other type of vessel that the Secretary of Transportation determines to be suitable for use by the United States Government for national defense or military purposes in time of war or national emergency;

(3) the vessel--

(A)(i) is documented under chapter 121 of this title; and

(ii) on the date an operating agreement covering the vessel is entered into under this chapter, is a LASH vessel that is not more than 25 years old or is any other type of vessel that is not more than 15 years old, except that the Secretary of Transportation may waive this clause (ii) if the Secretary, in consultation with the Secretary of Defense, determines that the waiver is in the national interest; or

(B) is not documented under chapter 121 of this title but--

(i) the owner of the vessel has demonstrated an intent to have the vessel documented under chapter 121 of this title if it is included in the Fleet; and

(ii) the vessel will be less than 10 years old on the date of that documentation;

(4) the Secretary of Transportation determines that the vessel is necessary to maintain a United States presence in international commercial shipping or, after consultation with the Secretary of Defense, determines that the vessel is militarily useful for meeting the sealift needs of the United States during national emergencies; and

(5) at the time an operating agreement for the vessel is entered into under this chapter, the vessel will be eligible for documentation under chapter 121 of this title.

Sec. 53103. Noncontiguous domestic commerce

(a) Definitions.--In this section--

(1) "participates in noncontiguous domestic commerce" means directly or indirectly owns, charters, or operates a vessel engaged in transportation of cargo between a point in the contiguous 48 states and a point in Alaska, Hawaii, or Puerto Rico, except a point in Alaska north of the Arctic Circle.

(2) "related party" means--

(A) a holding company, subsidiary, affiliate, or associate of a contractor that is a party to an operating agreement under this chapter; and

(B) an officer, director, agent, or other executive of a contractor or of a person referred to in subclause (A) of this clause.

(b) Requirement for Written Permission.--(1) Except as otherwise provided in this section, written permission of the Secretary of Transportation is required for--

(A) a contractor or a related party to receive a payment under this chapter during a period when it participates in noncontiguous domestic commerce; or

(B) a material change in the number or frequency of sailings, the capacity offered, or the domestic ports called by a contractor or related party in noncontiguous domestic commerce.

(2) Subject to paragraph (3) of this subsection, the Secretary may grant the written permission unless the Secretary finds that--

(A) the existing service in that noncontiguous domestic commerce is adequate; or

(B) the service sought to be provided by the contractor or related party would--

(i) result in unfair competition to any other person operating vessels in that noncontiguous domestic commerce; or

(ii) be contrary to the objectives and policy of this subtitle.

(3) A written application for written permission under this subsection must be filed with the Secretary by a contractor or related party. The application must contain the information required by subsection (e) of this section. The Secretary shall publish notice of the application in the Federal Register within 15 days after the application is filed. The Secretary shall hold a hearing on the application under section 554 of title 5 in which every person having an interest in the application shall be permitted to intervene and be heard. The Secretary shall make a final decision on the application within 120 days after conclusion of the hearing.

(4) Written permission under this subsection shall state the capacity offered, the number and frequency of sailings, and the domestic ports called.

(5) Paragraph (1) of this subsection does not apply to operation by a contractor of a self-propelled tank vessel in noncontiguous domestic commerce or to ownership by a contractor of an interest in a self-propelled tank vessel in noncontiguous domestic commerce.

(c) Continuation of Prior Level of Service.--(1) Subject to other requirements in this section, subsection (b) of this section does not apply to provision by a contractor of service that is--

(A) within the level of service provided by that contractor as of the date specified in paragraph (2) of this subsection; or

(B) in addition to the level of service under clause (A) of this paragraph, if the additional service is in proportion to the annual increase, since the applicable date in paragraph (2) of this subsection, in real gross product of the noncontiguous State or Commonwealth served.

(2) The date referred to in paragraph (1) of this subsection is August 9, 1995. However, for tug and barge service to Alaska, the date is July 1, 1992.

(d) Determination of Prior Level of Service.--(1) The level of service provided by a contractor as of the date specified in subsection (c)(2) of this section is considered to be--

(A) for service other than service described in subclause (B) of this paragraph, the total annual capacity provided by the contractor in that noncontiguous domestic commerce for the 12 calendar months preceding that date, except that--

(i) for unscheduled, contract carrier tug and barge service between points in Alaska south of the Arctic Circle and points in the contiguous 48 States, the level of service provided by a contractor includes 100 percent of the capacity of the equipment dedicated to that service on the date specified in subsection (c)(2) of this section and actually used in that

service in the 2-year period preceding that date, excluding service to points between Anchorage, Alaska and Whittier, Alaska, served by common carrier service unless that unscheduled service is only for carriage of oil or pursuant to a contract with the United States military; and

(ii) for scheduled barge service between the contiguous 48 States and Puerto Rico, the total annual capacity is deemed to be the total annual capacity plus the annual capacity of two additional barges, each capable of carrying 185 trailers and 100 automobiles; and

(B) for service provided by container vessels, the overall capacity equal to the sum of--

(i) 100 percent of the capacity of vessels that are operated by or for the contractor on that date, with the vessels' configuration and frequency of sailing in effect on that date, and that participate solely in that noncontiguous domestic commerce; and

(ii) 75 percent of the capacity of vessels that are operated by or for the contractor on that date, with the vessels' configuration and frequency of sailing in effect on that date, and that participate in that noncontiguous domestic commerce and in other commerce, but without any restriction on frequency or number of sailings or ports called within that overall capacity.

(2) The level of service under paragraph (1) of this subsection shall be described with the specificity required by subsection (e) of this section and shall be the level of service in a noncontiguous domestic commerce with respect to the applicable date in subsection (c)(2) of this section only if the service is not abandoned thereafter, except for interruptions due to military contingency or other events beyond the contractor's control.

(e) Information To Be Included in Application for Operating Agreement.--(1) A person applying for award of an operating agreement under this chapter shall include with the application a description of the level of service provided by that person in each noncontiguous domestic commerce served as of the date applicable under subsection (c)(2) of this section. For each such noncontiguous domestic commerce, the application also shall include--

(A) a list of vessels operated by that person in that commerce;

(B) their container carrying capacity expressed in twenty-foot equivalent units (TEUs) or other carrying capacity;

(C) the itinerary for each of those vessels; and

(D) other information the Secretary may require by regulation.

(2) The description and information provided under paragraph (1) of this subsection shall be made available to the public.

(3) Within 15 days after the date of an application for an operating agreement by a person seeking to provide service under subsection (c)(1)(A) of this section, the Secretary shall publish in the Federal Register notice of the description of the level of service and a request for public comments on the description. Comments on the description shall be submitted to the Secretary within 30 days after publication in the Federal Register. Within 15 days after receipt of comments, the Secretary shall issue a written decision accepting (in whole or in part) or rejecting use of the applicant's description to establish the level of service provided as of the date applicable under subsection (c)(2) of this section.

(4) Notwithstanding the provisions of this subsection, processing of the application for an award of an operating agreement may not be suspended or delayed during the time in which comments may be submitted or during the time prior to issuance by the Secretary of the required decision under paragraph (3) of this subsection.

(5) If the Secretary does not make the decision required by paragraph (3) of this subsection within the time provided in paragraph (3), the description of the level of service provided by the applicant shall be deemed to be the level of service provided as of the applicable date until the Secretary makes the decision.

(f) Application To Provide Additional Service.--(1) A contractor seeking to provide additional service as provided in subsection (c)(1)(B) of this section must file an application with the Secretary. The application must state--

(A) the increase in capacity sought to be offered;

(B) a description of the means by which the additional capacity would be provided;

(C) the basis for applicant's position that the increase in capacity would be in proportion to or less than the increase in real gross product of the relevant noncontiguous State or Commonwealth since the applicable date specified in subsection (c)(2) of this section; and

(D) other information the Secretary may require so that the Secretary can accurately determine the increase in real gross product of the relevant noncontiguous State or Commonwealth.

(2) The increase in capacity sought by the applicant and the information provided by the applicant shall be made available to the public.

(3) Within 15 days after the date of an application under this subsection, the Secretary shall publish in the Federal Register notice of the application and a request for public comments on the application.

(4) Comments on the application shall be submitted to the Secretary within 30 days after publication in the Federal Register.

(5) Within 15 days after receipt of comments, the Secretary shall issue a written decision accepting (in whole or in part) or rejecting the increase in capacity sought by the applicant as being in proportion to or less than the increase in real gross product of the relevant noncontiguous State or Commonwealth since the applicable date in subsection (c)(2) of this section.

(6) If the Secretary does not make the decision required by paragraph (5) of this subsection within the time provided in paragraph (5), the increase in capacity sought by the applicant shall be permitted as being in proportion to or less than the increase in real gross product until the Secretary makes the decision.

(g) Denial of Payments for Unauthorized Service.--If a contractor provides service in a noncontiguous domestic commerce not authorized by this section, the Secretary shall deny payments under the operating agreement for the period of provision of that service. However, the Secretary shall deny payments only in part if the extent of provision of the unauthorized service was de minimis or not material.

(h) Temporary Permission.--Notwithstanding any other provision of this chapter, the Secretary may issue temporary permission for any United States citizen to provide service to a noncontiguous State or Commonwealth on request of the chief executive officer of the noncontiguous State or Commonwealth, in circumstances where an Act of God, a declaration of war or national emergency, or any other condition occurs that prevents ocean transportation service to the noncontiguous State or Commonwealth from being provided by persons currently providing the service. Temporary permission under this subsection expires 90 days after it is given, unless extended by the Secretary on written request of the chief executive officer of the State or Commonwealth.

Sec. 53104. National security requirements

(a) Emergency Preparedness Agreement.--(1) The Secretary of Transportation shall establish an Emergency Preparedness Program under this section that is approved by the Secretary of Defense. Under the program, the Secretary of Transportation shall include in each operating agreement under this chapter a requirement that the contractor enter into an Emergency Preparedness Agreement under this section with the Secretary. The Secretary shall negotiate and enter into an Emergency Preparedness Agreement with each contractor as promptly as practicable after the contractor has entered into an operating agreement under this chapter.

(2) An Emergency Preparedness Agreement under this section shall require that on a request by the Secretary of Defense during time of war or national emergency, or whenever the Secretary of Defense determines it to be necessary for national security (including any natural disaster, international peace operation, or contingency operation as defined in section 101 of title 10), a contractor for a vessel covered by an operating agreement under this chapter shall make available commercial transportation resources (including services). The basic terms of the Emergency Preparedness Agreements shall be established pursuant to consultations among the Secretary of Transportation, the Secretary of Defense, and Maritime Security Program contractors. In any Emergency Preparedness Agreement, the Secretary of Transportation and a contractor may agree to additional or modifying terms appropriate to the contractor's circumstances if those terms have been approved by the Secretary of Defense.

(3) Except as provided by section 53118(b) of this title, the Secretary of Transportation may not require, through an Emergency Preparedness Agreement or operating agreement, that a contractor continue to participate in an Emergency Preparedness Agreement when the operating agreement with the contractor has expired according to its terms or is otherwise no longer in effect. After expiration of an Emergency Preparedness Agreement, a contractor may volunteer to continue to participate in such an agreement.

(b) Resources Made Available.--The commercial transportation resources to be made available under an Emergency Preparedness Agreement shall include vessels or capacity in vessels, intermodal systems and equipment, terminal facilities, intermodal and management services, and other related services, or any agreed portion of such nonvessel resources for activation as the Secretary may determine to be necessary, seeking to minimize disruption of the contractor's service to commercial shippers.

(c) Compensation.--(1) The Secretary of Transportation shall provide in each Emergency Preparedness Agreement for fair and reasonable compensation for all commercial transportation resources provided pursuant to this section.

(2) Compensation under this subsection--

(A) may not be less than the contractor's commercial market charges for like transportation resources;

(B) shall include all the contractor's costs associated with provision and use of the contractor's commercial resources to meet emergency requirements;

(C) in the case of a charter of an entire vessel, shall be fair and reasonable;

(D) shall be in addition to and may not in any way reflect amounts payable under an operating agreement under this chapter; and

(E) shall be provided from the time that a vessel or resource is diverted from commercial service until the time that it reenters commercial service.

(3) Compensation may not be provided for a vessel under this subsection unless the amount of the compensation is approved by the Secretary of Defense.

(d) Temporary Replacement Vessels.--Notwithstanding any other provision of this chapter or other law--

(1) a contractor or other person that commits to make available a vessel or vessel capacity under the Emergency Preparedness Program or another primary sealift readiness program approved by the Secretary of Defense may, during the activation of that vessel or capacity under that program, operate or employ in foreign commerce a foreign vessel or foreign vessel capacity as a temporary replacement for the activated vessel or capacity; and

(2) such a replacement vessel or vessel capacity shall be eligible during the replacement period to transport preference cargoes subject to section 56302(a), 56304, 56305, of this title, or section 2631 of title 10, to the same extent as the vessel or vessel capacity replaced.

(e) Redelivery and Liability of United States Government for Damages.--(1) All commercial transportation resources activated under an Emergency Preparedness Agreement shall be redelivered to the contractor, on termination of the period of activation, in the same good order and condition as when received, less ordinary wear and tear, or the United States Government shall fully compensate the contractor for any necessary repair or replacement.

(2) Except as may be expressly agreed to in an Emergency Preparedness Agreement, or as otherwise provided by law, the Government is not liable for disruption of a contractor's commercial business or other consequential damages to a contractor arising from activation of commercial transportation resources under an Emergency Preparedness Agreement.

(3) Sections and chapter 573 of this title do not apply to a vessel while it is covered by an Emergency Preparedness Agreement under this chapter. An Emergency Preparedness Agreement entered into by a contractor supersedes any other agreement between the contractor and the Government for vessel availability in time of war or national emergency.

Sec. 53105. Authorization of appropriations

There are authorized to be appropriated for operating agreements under this chapter, to remain available until expended, such sums as may be necessary, not to exceed \$100,000,000, for each fiscal year through fiscal year 2005.

SUBCHAPTER II--OPERATING AGREEMENTS

Sec. 53111. General authority

(a) Condition for Inclusion in Fleet.--The Secretary of Transportation shall require, as a condition of including any vessel in the Maritime Security Fleet, that the owner or operator of the vessel enter into an operating agreement with the Secretary under this subchapter.

(b) Effectiveness and Renewability.--The Secretary may enter into an operating agreement under this subchapter for fiscal year 1996. The agreement shall be effective for only one fiscal year, but shall be renewable, subject to the availability of appropriations, for each subsequent fiscal year through the end of fiscal year 2005.

(c) Payment Requirements.--An operating agreement under this subchapter shall require, subject to the availability of appropriations and other provisions of this subchapter, that the Secretary pay each fiscal year to the contractor, for each vessel covered by the agreement, \$2,300,000 for fiscal year 1996 and \$2,100,000 for each fiscal year thereafter in which the agreement is in effect. The amount shall be paid in equal monthly installments at the end of each month. The amount may not be reduced except as provided in this subchapter.

(d) Contractual Obligation of Government.--An operating agreement under this subchapter constitutes a contractual obligation of the United States Government to pay the amounts provided for in the agreement to the extent of actual appropriations.

Sec. 53112. Awarding of agreements

(a) General.--Within 90 days after receipt of an application for enrollment of a vessel in the Maritime Security Fleet, the Secretary of Transportation shall enter into an operating agreement with the applicant or provide in writing the reason for denial of the application.

(b) Award of Operating Agreements.--(1) Subject to paragraph (4) of this subsection, the Secretary shall award operating agreements within each priority under subsection (c)(1), (2), and (3) of this section under regulations prescribed by the Secretary.

(2) Regulations under paragraph (1) of this subsection shall provide that if appropriated amounts are not sufficient for operating agreements for all vessels within a priority under subsection (c)(1), (2), or (3) of this section, the Secretary shall award to each person submitting a request a number of operating agreements that bears approximately the same ratio to the total number of vessels in the priority, as the amount of appropriations available for operating agreements for vessels in the priority bears to the amount of appropriations necessary for operating agreements for all vessels in the priority.

(3) Under paragraph (2) of this subsection, a related party with respect to a person shall be treated as the person.

(4) In awarding operating agreements for vessels within a priority under subsection (c)(1), (2), or (3) of this section, the Secretary shall give preference to a vessel that was constructed in the United States, to the extent the preference is consistent with establishment of a fleet described in the first sentence of section 53102(a) of this title (taking into account the age of the vessel, the nature of service provided by the vessel, and the commercial viability of the vessel).

(c) Priority for Awarding Agreements.--Subject to the availability of appropriations, the Secretary shall enter into operating agreements according to the following priority:

(1)(A) Subject to subparagraph (B) of this paragraph, first priority shall be given to any vessel that is--

(i) owned and operated by persons deemed to be citizens of the United States under section 171 of this title; or

(ii) less than 10 years old and owned and operated by a corporation that is--

(I) deemed to be a citizen of the United States under section 171 of this title; and

(II) affiliated with a corporation operating or managing other United States-documented vessels for the Secretary of Defense or chartering other vessels to the Secretary of Defense.

(B) The total number of operating agreements that may be entered into by a person under the priority in subparagraph (A) of this paragraph--

(i) for vessels described in subparagraph (A)(i) of this paragraph, may not exceed the sum of--

(I) the number of United States-documented vessels the person operated in the foreign commerce of the United States (except mixed coastwise trade and foreign commerce) on May 17, 1995; and

(II) the number of United States-documented vessels the person chartered to the Secretary of Defense on that date; and

(ii) for vessels described in subparagraph (A)(ii) of this paragraph, may not exceed 5 vessels.

(C) Under subparagraph (B) of this paragraph, a related party with respect to a person shall be treated as the person.

(2) To the extent that amounts are available after applying paragraph (1) of this subsection, second priority shall be given to any vessel that is owned and operated by a person that--

(A) is deemed to be a citizen of the United States under section 171 of this title and has not been awarded an operating agreement under the priority established under paragraph (1) of this subsection; or

(B) is a citizen of the United States and is affiliated with a corporation operating or managing other United States-documented vessels for the Secretary of Defense or chartering other vessels to the Secretary of Defense.

(3) To the extent that amounts are available after applying paragraphs (1) and (2) of this subsection, third priority shall be given to any other eligible vessel.

Sec. 53113. Vessels under operating-differential subsidy contract or charter

(a) Eligibility.--Notwithstanding section 53116(a) of this title, the Secretary may enter into an operating agreement for, among other vessels that are eligible to be included in the Maritime Security Fleet, any vessel that continues to operate under an operating-differential subsidy contract under chapter 533 of this title or is under charter to the Secretary of Defense.

(b) Effective Date of Agreement.--Unless an earlier date is requested by the applicant, the effective date of an operating agreement for a vessel that is, on the date of entry into an operating agreement, subject to a contract under chapter 533 of this title or on charter to the United States Government (except a charter under section 53104 of this title) shall be the expiration or termination date of the contract under chapter 533 or of the Government charter covering the vessel, respectively, or any earlier date the vessel is withdrawn from that contract or charter.

Sec. 53114. Documentation and operation requirements

(a) General.--An operating agreement under this section shall require that, during the period a vessel is operating under the agreement, the vessel--

(1) shall be documented under chapter 121 of this title; and

(2)(A) shall be operated only in foreign commerce or in mixed foreign and domestic commerce as allowed under a registry endorsement issued under chapter 121 of this title; and

(B) may not otherwise be operated in coastwise trade, as specified by chapter 561 of this title,.

(b) Certification Required for Payment.--As a condition of receiving payment under this section for a fiscal year for a vessel, the contractor for the vessel shall certify, under regulations prescribed by the Secretary of Transportation, that the vessel has been and will be operated in accordance with subsection (a)(2) of this section for at least 320 days in the fiscal year. For this purpose, days during which the vessel is drydocked, surveyed, inspected, or repaired are considered days of operation.

Sec. 53115. Regulatory relief

A contractor of a vessel included in an operating agreement under this chapter may operate the vessel in the foreign commerce of the United States without restriction, and is not subject to any requirement under section 53322(a)(9)-(12), 53354, 53355, 59522, of this title. Participation in the program established by this chapter does not subject a contractor to any provision of chapter 533 or section 59541 or 59543 of this title. The restrictions of section 56305(a)(1) of this title relating to the building, rebuilding, or documentation of a vessel in a foreign country do not apply to a vessel for any day the operator of the vessel is receiving payments under an operating agreement under this chapter.

Sec. 53116. Payments

(a) Limitations.--The Secretary of Transportation may not make a payment under this chapter for a vessel for any days for which the vessel is--

(1) subject to an operating-differential subsidy contract under chapter 533 of this title, or under a charter to the United States Government, except a charter under section 53104 of this title;

(2) not operated or maintained in accordance with an operating agreement under this subchapter; or

(3) more than 25 years old, except that the Secretary may make payments for a LASH vessel for any day for which the vessel is more than 25 years old if that vessel is--

(A) modernized after January 1, 1994;

(B) modernized before it is 25 years old; and

(C) not more than 30 years old.

(b) Reductions.--With respect to payments under this chapter for a vessel covered by an operating agreement, the Secretary--

(1) may not reduce any payment (except as provided in clause (2) of this subsection) for the operation of a vessel to carry military or other preference cargoes under chapter 563 of this title or any other cargo preference law of the United States;

(2) may not make any payment for any day that a vessel is engaged in transporting more than 7,500 tons of civilian bulk preference cargo under section 56302(a), 56305, of this title that is bulk cargo; and

(3) shall make a pro rata reduction in payment for each day less than 320 in a fiscal year that a vessel covered by an operating agreement is not operated in accordance with section 53114(a)(2) of this title, with days during which the vessel is drydocked or undergoing survey, inspection, or repair considered to be days on which the vessel is operated.

Sec. 53117. Transfer of agreements

A contractor under an operating agreement may transfer the agreement (including all rights and obligations under the agreement) to any person eligible to enter into that agreement under this chapter after notification to the Secretary of Transportation under regulations prescribed by the Secretary, unless the transfer is disapproved by the Secretary within 90 days after the date of that notification. A person to whom an operating agreement is transferred may receive payments from the Secretary under the agreement only if each vessel to be covered by the agreement after the transfer is an eligible vessel under section 53102(b) of this title.

Sec. 53118. Termination of agreements

(a) Failure To Engage in Operation.--The obligation of the Secretary of Transportation to make payments under an operating agreement under this chapter terminates for a vessel if the contractor fails to engage in operation of the vessel for which the payment is required within--

(1) one year after the effective date of the operating agreement, in the case of a vessel in existence on the effective date of the agreement; or

(2) 30 months after the effective date of the operating agreement, in the case of a vessel to be constructed after that effective date.

(b) Early Termination.--An operating agreement under this chapter shall terminate on a date specified by the contractor if the contractor notifies the Secretary, not later than 60 days before the effective date of the termination, that the contractor intends to terminate the agreement. Vessels covered by an operating agreement terminated under this subsection shall remain documented under chapter 121 of this title until the date the operating agreement would have terminated according to its terms. A contractor that

terminates an operating agreement under this subsection shall continue to be bound by the provisions of section 53104 of this title until the date the operating agreement would have terminated according to its terms. All terms and conditions of an Emergency Preparedness Agreement entered into under section 53104 shall remain in effect until the date the operating agreement would have terminated according to its terms, except that the terms of the Emergency Preparedness Agreement may be modified by the mutual consent of the contractor and the Secretary of Transportation and the Secretary of Defense.

(c) Non-Renewal for Lack of Funds.--If, by the first day of a fiscal year, sufficient funds have not been appropriated under the authority provided by section 53105 of this title for that fiscal year, the Secretary of Transportation shall notify Congress that operating agreements authorized under this chapter for which sufficient funds are not available will not be renewed for that fiscal year if sufficient funds are not appropriated by the 60th day of that fiscal year. Notwithstanding any other provision of law, if funds are not appropriated under the authority provided by section 53105 for any fiscal year by the 60th day of that fiscal year, then each vessel covered by an operating agreement under this chapter for which funds are not available is released from any further obligation under the operating agreement, and the vessel owner or operator may transfer the registration of the vessel to a foreign country acceptable to the Secretary of Transportation. If chapter 573 of this title applies to the vessel after registration of the vessel in a foreign country, the vessel is available to be requisitioned by the Secretary of Transportation under chapter 573.

Sec. 53119. Notice of intention to use foreign shipyard

The Secretary of Transportation shall include in any operating agreement under this chapter a requirement that the contractor, not later than 30 days after soliciting any bid or offer for construction of any vessel in a foreign shipyard and before entering into a contract for construction of a vessel in a foreign shipyard, shall provide notice of the contractor's intention to enter into such a contract to each shipyard in the United States that is capable of constructing the vessel.

CHAPTER 533--OPERATING-DIFFERENTIAL SUBSIDIES

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- 53353. Operating in domestic service.
- 53354. Preferences to cargo in which contractor has interest.
- 53355. Concerted discriminatory activities.
- 53356. Transfer of inactive passenger vessels to foreign ownership.

SUBCHAPTER I--GENERAL

Sec. 53301. Definitions

- (a) General.--In this chapter--

(1) "citizen of the United States" includes a corporation qualifying as a citizen of the United States under section 171 of this title only if each director of the corporation is a citizen of the United States.

(2) "essential service", in reference to the operation of a vessel, means--

(A) a service, route, or line described in section 50103(a) of this title; or

(B) a bulk cargo-carrying service described in section 50103(b) of this title.

(3) "foreign commerce" does not include the operation of a vessel on the inland waterways of the United States.

(4) "passenger vessel" means a vessel of at least 10,000 gross tons with accommodations for at least 100 passengers.

(b) Certain Vessels Deemed Built in United States.--In this chapter, a vessel built, rebuilt, or acquired under section 615 of the Merchant Marine Act, 1936, is deemed to have been built in the United States.

Sec. 53302. Wind-up of program

(a) Prohibition on New Contracts.--The Secretary of Transportation may not enter into any new contract for an operating-differential subsidy under this chapter.

(b) Continuation and Termination of Existing Contracts.--Any operating-differential subsidy contract in effect on October 7, 1996, shall continue in effect and terminate as provided in the contract, unless terminated at an earlier date by the parties (other than the United States Government) to the contract.

(c) Nonapplication of Certain Requirements.--Section 50302 of this title and the essential service requirements of section 53312 of this title do not apply to the operating-differential subsidy program under this chapter effective on the earlier of--

(1) the date that a payment is made under chapter 531 of this title to a contractor under that chapter that is not a party to an operating-differential subsidy contract under this chapter (with the Secretary to publish notice of that date in the Federal Register as soon as possible); or

(2) with respect to a particular contractor under this chapter, the date that the contractor makes a contract with the Secretary under chapter 531 of this title.

Sec. 53303. Obsolete and ineligible vessels

(a) Obsolete vessels.--An operating-differential subsidy may not be paid for a vessel after the calendar year in which the vessel becomes 25 years old, unless the Secretary of Transportation has determined, before October 8, 1996, that it is in the public interest to grant an operating-differential subsidy for the vessel.

(b) Ineligible vessels.-- An operating-differential subsidy may not be paid for the operation of a vessel that does not meet the following requirements:

(1) The vessel is of steel or other acceptable metal, propelled by steam or motor, as nearly fireproof as practicable, built in a United States shipyard, and a documented vessel during the entire period of the subsidy contract.

(2) The vessel is constructed according to plans and specifications approved by the Secretary of Transportation and the Secretary of the Navy, with particular reference to economical conversion into an auxiliary naval vessel, or is approved by the Secretary of Transportation and the Secretary of the Navy as otherwise useful to the United States in time of national emergency.

Sec. 53304. Documentation of vessel

(a) General.--Except as provided in subsection (b) of this section, a vessel for which an operating-differential subsidy contract is in effect shall remain documented under the laws of the United States during the life of the contract.

(b) Transfer to Foreign Documentation.--(1) The documentation of a vessel may be transferred to an effective United States-controlled foreign flag if--

(A) the operator of the vessel receives an operating-differential subsidy under a contract that was in force on October 1, 1994, and the Secretary approves the replacement of the vessel with a comparable vessel; or

(B) the vessel is covered by an operating agreement under chapter 531 of this title and the Secretary approves replacement of the vessel with a comparable vessel for inclusion in the Maritime Security Fleet under chapter 531.

(2) A vessel documented as provided in this subsection may be requisitioned by the Secretary of Transportation under chapter 573 of this title.

Sec. 53305. Vessels operating in coastwise trade

(a) Prohibition.--Except as provided in subsection (b) of this section, an operating-differential subsidy may not be paid for the operation of a vessel on a voyage on which it engages in coastwise trade, as specified by chapter 561 of this title.

(b) Exceptions.--An operating-differential subsidy may be paid for the operation of a vessel on--

(1) a round-the-world voyage that includes an intercoastal port of the United States;

(2) a round voyage from the west coast of the United States to a European port that includes an intercoastal port of the United States;

(3) a round voyage from the east coast of the United States to the Orient that includes an intercoastal port of the United States; or

(4) a voyage in foreign commerce on which the vessel may stop at Hawaii or an island territory or possession of the United States.

(c) Subsidy Reductions.--If a subsidized vessel earns any gross revenue for the transportation of passengers, cargo, or mail in coastwise trade described in subsection (b) of this section, the subsidy payment for the entire voyage shall be reduced by an amount determined by--

(1) dividing the gross revenue from the commerce described in subsection (b) of this section by the gross revenue from the entire voyage; and

(2) multiplying the amount determined under clause (1) of this subsection by the subsidy otherwise payable.

Sec. 53306. Sealift readiness program

An operating-differential subsidy may not be paid for a vessel unless it is offered for enrollment in a sealift readiness program approved by the Secretary of Defense.

SUBCHAPTER II--AMOUNTS OF SUBSIDY

Sec. 53311. Definitions

(a) Base Period.--In this subchapter, "base period" means an annual period beginning July 1 and ending June 30 for which a base period cost is established.

(b) Base Period Costs.--(1) In this subchapter, "base period costs" means the average of--

(A) the subsidizable wage costs of United States officers and crews for the prior annual period ending June 30, calculated without regard to the limitation in subsection (d)(2) of this section, but adjusted by the increase or decrease in the index of collective bargaining costs under section 53314 of this title from January 1 of the prior annual period to January 1 of the base period; and

(B) the collective bargaining costs on January 1 of the base period.

(2) The base period costs may not be such that the difference between the base period costs and the collective bargaining costs on January 1 of any base period subsequent to the first base period is more than 1.25 percent of the collective bargaining costs on that January 1 multiplied by the number of years that have elapsed since the most recent base period.

(c) Collective Bargaining Costs.--(1) In this subchapter, "collective bargaining costs" means the annual cost, calculated on the basis of the per diem rate of expense on any date, of all items of expense required of the applicant through collective bargaining or other agreement covering the employment of United States officers and crews--

(A) including payments required by law to assure old-age pensions, unemployment benefits, or similar benefits and taxes or other governmental assessments on crew payrolls; and

(B) excluding subsistence of officers and crews on non-passenger vessels and costs related to the officers and members of the crew that the Secretary of Transportation has found, before awarding a contract for the building or rebuilding of a vessel, to be unnecessary for the efficient and economical operation of the vessel.

(2) In making a finding referred to in paragraph (1)(B) of this subsection, the Secretary shall--

(A) provide representatives of collective bargaining units responsible for manning the vessel an opportunity to comment on a proposed finding before it becomes effective; and

(B) give consideration to, but not be bound by, wage and manning scales and working conditions required by a bona fide collective bargaining agreement.

(d) Subsidizable Wage Costs of United States Officers and Crews.--(1) In this subchapter, "subsidizable wage costs of United States officers and crews" means--

(A) for a base period, the base period costs; and

(B) for any other period, the most recent base period costs adjusted by the increase or decrease in the index of collective bargaining costs under section 53314 of this title from January 1 of the most recent base period to January 1 of the period for which the subsidizable wage costs are determined.

(2) The subsidizable wage costs of United States officers and crews in any period other than a base period may not be less than 90 percent, nor more than 110 percent, of the collective bargaining costs on January 1 of that period.

Sec. 53312. Subsidy amounts

(a) Determining Subsidy Amounts.--Unless the parties agree to a lesser amount, the amount of the operating-differential subsidy for the operation of a vessel in an essential service shall be equal to the excess of--

(1) the subsidizable wage costs of the United States officers and crews and the fair and reasonable costs of insurance, maintenance, and repairs not compensated by insurance, incurred in operating the vessel covered by the subsidy contract when under United States registry; over

(2) the estimated fair and reasonable cost of the items referred to in clause (1) of this subsection (after deducting any estimated increase because of national defense features incorporated under chapter 535 of this title) for that vessel if it were operated under the registry of a foreign country whose vessels are substantial competitors of the vessel covered by the contract.

(b) Additional Passenger Vessel Amounts.--For a passenger vessel, the subsidy shall include an additional amount equal to the excess of--

(1) the fair and reasonable cost of subsistence of officers and crews on passenger vessels of the United States; over

(2) the estimated fair and reasonable cost of subsistence of officers and crews for passenger vessels of foreign countries.

(c) Calculation During Periods of Cruise Service.--For any period during which a vessel is engaged in cruise service authorized under subchapter IV of this chapter, the operating-differential subsidy shall be computed as though the vessel were operating on the essential service to which the vessel is assigned. However, if the vessel stops at a port outside of its assigned service, but which is served with passenger vessels by another subsidized operator at an operating-differential subsidy rate for wages lower than the cruise vessel has on its assigned essential service, the operating-differential subsidy rates for each of the subsidizable items for each day (or fraction of a day) that the vessel stops at that port shall be at the respective rates applicable to the subsidized operator regularly serving the area.

(d) Bulk Cargo Vessel Alternative Payment.--For a vessel in an essential bulk cargo-carrying service, the Secretary may pay, instead of the operating-differential subsidy provided by this section, an amount the Secretary decides is necessary to make the cost of operating the vessel under United States registry competitive with the cost of operating similar vessels under foreign registry.

Sec. 53313. Determination of collective bargaining costs

(a) General Requirements.--The Secretary of Transportation shall--

(1) determine the collective bargaining costs on vessels in subsidized operation each January 1; and

(2) establish new base period costs at intervals of at least 2 years but not more than 4 years.

(b) Establishing New Base Periods.--The Secretary may not establish a new base period without providing public notice of an intention to do so before the December 31 that would be included in the new base period.